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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,988	10/24/2003	Michael D. Kotzin	CS23202RA	1736

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EXAMINER

NGUYEN, KHAI MINH

ART UNIT PAPER NUMBER

2687

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/692,988

Applicant(s)

KOTZIN ET AL.

Examiner

Khai M. Nguyen

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-12 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 3 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is response to Amendment filed on 8/17/2005.  
Claims 1-21 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-2, 4-6, 14,18** are rejected under 35 U.S.C. 102(e) as being anticipate by Mauney (U.S.Pub-20050159107).

Regarding claim 1, Mauney teaches a method in a wireless handheld communication device for reducing a communication delay at a proximate wireless communication device (fig.2-3, paragraph 0115-0116) comprising:

communicating a first communication on first link to a proximate wireless communication device (fig.3, paragraph 0060, 0116, 0118, *when operating in a direct handset-to-handset communication mode, the wireless handsets 42a, 42b directly establish communication between one another without use of a base station or MSC*); and

communicating simultaneously with communicating said first communication (fig.3, paragraph 0060, 0116, 0118), a second communication on a second link to a base station (fig.2, paragraph 0115-0116), wherein said first communication and said second communication are substantially the same (paragraph 0119).

Regarding claim 2, Mauney teaches the method of claim 1, wherein communicating said second communication further comprises communicating said second communication to a remote device by relaying said second communication through said base station to said remote device (fig.2, paragraph 0115-0116).

Regarding claim 4, Mauney teaches the method of claim 1, further comprising prior to communicating said first communication to said proximate wireless communication device (fig.3, paragraph 0060, 0116, 0118) receiving from a wireless local area network (paragraph 0059), a notification that at least one said proximate wireless communication device is currently connected to said wireless local area network (paragraph 0059-0060).

Regarding claim 5, Mauney teaches the method of claim 1, further comprising activating a push-to-talk communication button or a send key prior to the step of communicating said first communication (paragraph 0118, 0121).

Regarding claim 6, Mauney teaches the method of claim 2, wherein said first link is a direct link to said proximate wireless communication device for communicating said first communication with a reduced audio latency relative to said second communication relayed through said base station to said remote device (paragraph 0125, 0127).

Regarding claim 14, Mauney teaches a method in a wireless communication system (fig.2-3, paragraph 0117-0118) comprising:

receiving a first device channel assignment at a first device (fig.2-3, paragraph 0117-0118), said first device channel assignment comprising a first device uplink channel (fig.2-3, paragraph 0117-0118); and

informing a second device, proximate to said first device, of said first device channel assignment (fig.2-3, paragraph 0117-0118).

Regarding claim 18, Mauney teaches a method in a communication device for reducing the audio latency at a proximate communication device (paragraph 0125, 0127) comprising:

transmitting a first communication over a first direct link to a proximate communication device (fig.3, paragraph 0060, 0116, 0118, *when operating in a direct handset-to-handset communication mode, the wireless handsets 42a, 42b directly establish communication between one another without use of a base station or MSC*); and

transmitting, simultaneously with transmitting said first communication (fig.3, paragraph 0060, 0116, 0118), a second communication to a base station over a second link (fig.2-3, paragraph 0115-0016), different from said first link (fig.2-3, paragraph 0117-0118),

wherein said first communication and said second communication are substantially the same (paragraph 0119).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **7-12, 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauney (U.S.Pub-20040162064) in view of Carro (U.S.Pat-6580909).

Regarding claim 7, Mauney teaches the method of claim 6,

Mauney fails to specifically disclose an identifying said proximate wireless communication device as a wireless communication device, proximate to said wireless handheld communication device. However, Carro teaches an identifying said proximate wireless communication device as a wireless communication device (fig.1-2, abstract, col.5, lines 8-40), proximate to said wireless handheld communication device (fig.1-2, abstract, col.3, line 58 to col.4, line 33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an identifying said proximate wireless communication device as a wireless communication device, proximate to said wireless handheld communication device as taught by Carro with Mauney teaching in order to provides a system and method of forming a network, out of a plurality of mobile communications units sharing a common transmission medium without requiring a base station.

Regarding claim 8, Mauney and Carro further teaches the method of claim 7, wherein said step of identifying said proximate wireless communication device (see Carro, fig.1-2) comprises:

transmitting a proximate device request message (paragraph 0093); and  
  
receiving a proximate device response message from said proximate wireless communication device in response to said transmitting said proximate device request message (see Carro, fig.1-2, col.4, lines 12-33).

Regarding claim 9, Mauney and Carro further teaches the method of claim 7, wherein said step of identifying said proximate wireless communication device comprises receiving a proximate device notification message from said base station (see Carro, col.5, lines 7-28), said proximate device notification message identifying said proximate wireless communication device (see Carro, fig.1-2, col.5, lines 30-40), as a wireless communication device, proximate to said wireless handheld communication device (see Carro, fig.1-2, col.5, lines 7-40).

Regarding claim 10, Mauney and Carro further teaches the method of claim 9, further comprising:

establishing said first link with said proximate wireless communication device identified in said proximate device notification message from said base station (see Carro, col.5, lines 7-28), wherein said first link with said proximate wireless communication device is a direct link between said wireless communication device and



said proximate wireless communication device (see Carro, fig.1-2, abstract, col.3, line 58 to col.4, line 33); and

establishing said second link with said remote device through said base station (see Carro, fig.1, col.5, lines 8-29).

Regarding claim 11, Mauney and Carro further teaches the method of claim 8, further comprising prior to said step of transmitting said proximate device request message (paragraph 0117-0118), activating a push-to-talk communication button or a send key (paragraph 0121).

Regarding claim 12, Mauney and Carro further teaches the method of claim 7, wherein said step of identifying said proximate wireless communication device comprises initiating an ad hoc network with at least one proximate wireless communication device (paragraph 0117-0118).

Regarding claim 15, Mauney teaches the method of claim 14,

Mauney fails to specifically disclose an communicating an audio signal on said first device uplink channel with a base station. However, Carro teaches an communicating an audio signal on said first device uplink channel with a base station

(fig.1-2, col.5, lines 8-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an communicating an audio signal on said first device uplink channel with a base station as taught by Carro with Mauney teaching in order to provides a system and method of forming a network, out of a plurality of mobile communications units sharing a common transmission medium without requiring a base station.

Regarding claim 16, Mauney and Carro further teaches the method of claim 15 further comprising monitoring directly by said second device (see Carro, fig.1-2, col.5, lines 8-40), said audio signal of said first device on said first device uplink channel (paragraph 0125, 0127).

Regarding claim 17, Mauney and Carro further teaches the method of claim 16, further comprising:

determining that the quality of said audio signal is below a predetermined threshold (paragraph 0125, 0127);

canceling said monitoring directly said audio signal from said first device (paragraph 0125, 0127); and

monitoring said audio signal from said base station (see Carro, fig.1-2, col.4, line 53 to col.4, line 33) .

***Allowable Subject Matter***

5. Claims **3, 13** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims **19-21** are allowed.

The following is an examiner's statement of reasons for allowance: Prior art teaches a wireless communication device comprising: a microprocessor, a transmitter coupled to said microprocessor. However, the prior fails to teaches an transmitter capable of transmitting on a first link and a second link simultaneously, a proximate device communication module coupled to said microprocessor, said proximate device communication module communicating a first communication on first link to a proximate wireless communication device, and a wide area network communication module coupled to said microprocessor, said wide area network module communicating, simultaneously with communicating said first communication, a second communication on a second link to a base station, wherein said first communication and said second communication are substantially the same.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Citation of Pertinent Prior Art***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Himmelstein** (U.S.Pub-20040162064) discloses System and method for matching users based on proximity and/or user-defined profiles.

**Irvin** (U.S.Pat-6658264) discloses Wireless communications terminals and methods including multiple entry phonebook for multiple transceivers.

**Lecton et al.** (U.S.Pub-20030040322) discloses Global positioning family radio service and apparatus.

**Siegel** (U.S.Pub-20040097227) discloses Communication system with mobile coverage area.

**Odinak** (U.S.Pub-20040102186) discloses System and method for providing multi-party message-based voice communications.

**Dahod et al.** (U.S.Pub-20040224678) discloses Reduced latency in half-duplex wireless communications.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au: 2687

10/4/2005

  
10/17/05  
**LESTER G. KINCAID**  
**SUPERVISORY PRIMARY EXAMINER**